

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

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|-----------------------------|---|------------------|
| NORTHUMBERLAND COUNTY |) | |
| RETIREMENT SYSTEM, et al., |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | NO. CIV-11-520-D |
| |) | |
| GMX RESOURCES, INC, et al., |) | |
| |) | |
| Defendants. |) | |

ORDER

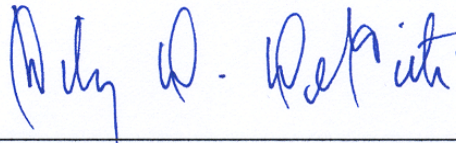
On February 3, 2012, Northumberland County Retirement System and the Oklahoma Law Enforcement Retirement System (“Plaintiffs”) filed a motion [Doc. No. 78] seeking appointment as lead plaintiff in this putative class action case and seeking Court approval of their choice of lead counsel. Also filed on February 3, 2012 was the motion [Doc. No. 71] of Timothy Berbenich, Kristy Berbenich and Thomas Janowitz (“Berbenich group”) seeking appointment of the Berbenich group as lead plaintiff and the approval of its chosen lead counsel. Plaintiffs timely filed a brief in opposition to the motion of the Berbenich group [Doc. No. 89]. However, the Berbenich group did not file a brief opposing Plaintiffs’ motion to be appointed lead plaintiff.

On February 27, 2012, Plaintiffs filed a notice [Doc. No. 90] noting that the Berbenich group had not timely opposed Plaintiffs’ motion for appointment as lead plaintiff and correctly noting that, pursuant to Local Civil Rule 7.1(g), Plaintiffs’ motion may be deemed confessed as a result of the Berbenich group’s failure to oppose it. The Berbenich group has not responded to the February 27, 2012 notice, and has filed no additional papers in this case.

To avoid further delay of the appointment of lead plaintiff and counsel, the Berbenich group is directed to file a statement indicating whether it opposes the appointment of Plaintiffs as lead

plaintiff. The Berbenich group must do so no later than seven days from the date of this Order.

IT IS SO ORDERED this 27th day of April, 2012.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE